IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT **PETITION NO.1913 OF 200**5

All India Medical Corporation & Anr..Petitioners

Vs.

State of Maharashtra & Ors. .....Respondents

Mr. B. Kamdin i/b. Wadia Ghandy & Co., for the

Petitioners.

Mr. A. Sayed, AGP for respondent No.1.

Mrs. A.K. Savla, for respondent No.2.

Mr. Uday Bobde i/b. S.D. Mogre for respondent No.4.

Mr.S.G. Surana, for respondent No.5

CORAM: **F.I. REBELLO &**

ANOOP V. MOHTA, JJ.

DATE: 25th SEPTEMBER 2006

P.C.

. The petitioner claims as sub-tenant of Respondent No.5. Respondent No.4 is the Developer. The grievance of the petitioner is that in Annexure prepared by respondent No.2 their name ought to have been included and not that of respondent No.5. A reply has been filed on behalf of the Corporation by Shri D.C. Kasbe, working as A.O. (Estate). We are concerned with para.4(d) and (e). It appears from a reading of the said paragraphs that the sub-tenant who is in exclusive possession has to apply to respondent No.1 Corporation for getting the tenancy transferred in his name by following the proper

procedure laid down by M.C.G.B. In the instant case on record the petitioner has not at all applied. The petitioner had come to this Court contending that the issue which arises is as to who is an occupant. The respondent Corporation have framed Administrative Guidelines for implementation of Reconstruction/Redevelopment Schemes under Regulation No.33(7) of the Development Control Regulations for Greater Bombay 1991. Those are not subject matter of challenge before us. In the light of that it will be open to the petitioner to apply to respondent No.1 within two weeks from today. In the event such an application is made the same will be disposed of by respondent No.1. For that purpose we are issuing the following directions:-

(i) The petitioner to apply to Respondent No.6 within two weeks from today for transferring the tenancy in their name as per procedure.

(ii) If such application is made respondent No.6 to hear the petitioner and respondent No.5 and to take a decision accordingly and communicate the same to the petitioner and respondent No.5. If the order is adverse to the petitioner the same not to be acted upon for a period of four weeks from the date of communication of the order. The Respondent No.6 to decide the application at any rate not later than twelve weeks from the copy of this order being served on respondent No.6.

(iii) Needless to say that it will be open to either the petitioner or respondent No.5 if aggrieved by the order to take necessary steps in law if they are entitled to.

(iv) The compensation payable will be subject to the final decision by respondent No.6.

(v) We make it clear that this order will not stand in the say of construction by respondent No.4.

(**F.I. REBELLO, J.**)

(ANOOP V. MOHTA, J.)